

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JOHN LAMAR BARNES, #336-955,	:	CASE NO. C-1-02-101
	:	
Plaintiff,	:	JUDGE SPIEGEL
v.	:	
	:	
MATTHEW THOMAS	:	
	:	
Defendant.	:	

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO  
ISSUE A WRIT OF HABEAS CORPUS AD TESTIFICANDUM FOR  
CLARENCE ROBERTS, #191-098**

Plaintiff seeks an Order to bring an inmate to Court for a trial to begin  
Monday, May 23, 2005. Defendant opposes Plaintiff's motion.

Respectfully submitted,

JIM PETRO  
Attorney General of Ohio

s/ MARIANNE RESSMAN  
MARIANNE PRESSMAN (0059512)  
Assistant Attorney General  
Corrections Litigation Section  
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**MEMORANDUM**

This case is set for Trial on May 23, 2005. Plaintiff is represented by counsel, Derek Farmer. This Trial has been postponed three times on motion of Plaintiff's counsel. A Final Pretrial Conference about this case was conducted on January 25, 2005. At that time, Plaintiff's counsel had not prepared his portion of the Pre-Trial Order, nor did he supply Defendant's counsel with a list of witnesses or exhibits. On January 31, 2005, Plaintiff's counsel sent those lists to Defendant's counsel.

On April 8, 2005, realizing that the Pre-Trial Order had never been filed, Defendant's counsel sent a letter to Mr. Farmer, submitting a draft Final Pre-Trial Order, and leaving room for him to fill in any claims or additional matters that he would like to include. There was never a response to that. Subsequently, Defendant's counsel submitted the proposed Joint Final Pre-Trial Order to the Judge's chambers, without participation from Plaintiff's counsel. On May 19, 2005, this Court conducted a telephone conference with counsel, reprimanding Mr. Farmer for failing to submit his proposed Final Pre-Trial Order. Mr. Farmer filed it this date. His list of witnesses is included in his version of the Order.

Later, shortly after the phone conference with the Court, Mr. Farmer filed a Motion for Writ of Habeas Corpus Ad Testificandum seeking an inmate, Clarence Roberts, #191-098, brought to Court to testify for Plaintiff. Mr. Roberts was never named as a witness previously and Defendant's counsel has no knowledge of who he is or what his testimony would consist of. After an inquiry, Defendant's counsel learned that since 2004, Mr. Roberts and Mr. Barnes have been

cellmates. They were probably first acquainted when they were both at Southern Ohio Correctional Facility (SOCF) previously. Had Mr. Farmer felt that Mr. Roberts had relevant testimony, he could have included his name on several occasions. Since he did not, Defendant objects to bringing Mr. Roberts to court or testifying in any manner.

Respectfully submitted,

JIM PETRO  
Attorney General of Ohio

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Defendant's Opposition* was filed electronically on May 20th, 2005. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ MARIANNE PRESSMAN  
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Assistant Attorney General